

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF VIRGINIA
Charlottesville Division

In Re:

ANGELA D. SPIVEY-BYERS,

Debtor.

Case No: 17-60369-RCC

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN

NOW COMES SunTrust Bank, a secured creditor herein, by counsel, and objects to the Confirmation of the Debtor's Chapter 13 plan dated and filed on March 10, 2017 on the following grounds:

1. That SunTrust Bank is the holder of a security interest in a motor vehicle, described as follows, owned by the Debtor herein:

2014 Honda CrossTour, VIN: 5J6TF2H53EL001828

True copies of the Retail Installment Sale Contract and Lien and Title Information evidencing SunTrust Bank's indebtedness, its security interest in said motor vehicle and the perfection thereof are attached hereto and incorporated herein by reference as Exhibits "A" and "B", respectively.

2. That the Debtor's Chapter 13 plan filed herein fails to provide SunTrust Bank with adequate protection of its security interest in the Debtor's motor vehicle aforesaid inasmuch as said plan fails to adequately value said motor vehicle constituting the collateral for its secured claim. The plan purports to value said vehicle at \$18,400.00. SunTrust Bank submits that the value of the vehicle is \$23,325.00, which figure is based upon a NADA valuation of the vehicle.

3. That SunTrust Bank submits further that the Debtor's Chapter 13 plan may not be confirmed as a matter of law as it violates 11 U.S.C. Sections 1325(a)(1) and 1325(a)(3) as it

conflicts with 11 U.S.C. Section 1325(a)(5). As heretofore alleged, the violations consist of the plan failing to provide that the value, as of the effective date of the plan, of property to be distributed under the plan on of such claim is not less than the allowed amount of such claim and also fails to provide for periodic equal monthly payments under the plan that are in an amount sufficient to provide this creditor's claim with adequate protection during the period of the plan.

4. That, as hereinabove alleged, the Debtor's Chapter 13 plan does not comply with all applicable provisions of 11 U.S.C. Section 1325(a)(1) and therefore is not confirmable as a matter of law.

WHEREFORE, SunTrust Bank, a creditor herein, by counsel, prays that confirmation of the Debtor's Chapter 13 plan be denied and that it be awarded its attorney's fees and costs herein incurred.

SUNTRUST BANK
By /s/ Robyn D. Pepin
Of Counsel

CERTIFICATE

I hereby certify that on March 21, 2017, a true copy of the foregoing Objection was submitted for electronic transmittal to William T. Harville, Attorney for Debtor, and to Herbert L. Beskin, Trustee; and was mailed, first class, postage prepaid to Angela D. Spivey-Byers, Debtor, at 712 Anderson Street, Charlottesville, VA 22903.

/s/ Robyn D. Pepin
Melissa M. Watson Goode, VSB #73516
Robyn D. Pepin, VSB #77784
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Buyer Name and Address (Including County and Zip Code) ANGELA D SPIVERY-BYERS 3754 PLANK RD NORTH GARDEN VA 22959		Co-Buyer Name and Address (Including County and Zip Code) N/A	Seller-Creditor Name WEST BROAD HONDA PO BOX 72075 RICHMOND, VA 23255-2075
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I, the Buyer (and Co-Buyer, if any), may buy the vehicle below for cash or on credit. By signing this contract, you choose to buy the vehicle on credit under the agreements on the front and back of this contract. You agree to pay the Seller - Creditor (sometimes "we") in this contract the Amount Financed and Finance Charge in U.S. funds according to the payment schedule below. We will figure your finance charge on a daily basis. The Truth-In-Lending Disclosures below are part of this contract.

New/Used/Demo	Year	Make and Model	Vehicle Identification Number	Primary Use For Which Purchased
NEW	2014	HONDA CROSS TOUR	5J6TF2H53EL001828	<input type="checkbox"/> Personal, family, or household unless otherwise indicated below <input type="checkbox"/> business <input type="checkbox"/> agricultural

FEDERAL TRUTH-IN-LENDING DISCLOSURES				
ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate.	FINANCE CHARGE The dollar amount the credit will cost you.	Amount Financed The amount of credit provided to you on your behalf.	Total of Payments The amount you will have paid after your purchase on credit, including your down payment as scheduled.	Total Sale Price The total cost of your purchase on credit, including your down payment of \$ 0.00.
5.21 %	\$ 8080.44	\$ 45722.06	\$ 53782.50	\$ 53782.50

Your Payment Schedule Will Be:

Number of Payments	Amount of Payments	When Payments Are Due
75	717.10	Monthly beginning 08/03/2014
N/A	N/A	N/A

Or As Follows:
N/A

Late Charge. If payment is not received in full within 7 days after it is due, you will pay a late charge of 5% of the part of the payment that is late. Prepayment. If you pay off all your debt early, you will not have to pay a penalty. Security Interest. You are giving a security interest in the vehicle being purchased. Additional Information: See this contract for more information including information about nonpayment, default, any required repayment in full before the scheduled date and security interest.

ITEMIZATION OF AMOUNT FINANCED	
1 Cash Price (including \$ 1200.84 sales tax)	\$ 32282.84 (1)
2 Total Downpayment Trade-In (Year) (Make) (Model) 2009 BMW CROSS TOUR Gross Trade-In Allowance Less Pay Off Made By Seller Equals Net Trade In + Cash + Other N/A	\$ 18000.00 \$ 26035.18 \$ 10035.18 \$ N/A \$ N/A \$ 0.00 (2)
3 Unpaid Balance of Cash Price (1 minus 2)	\$ 32282.84 (3)
4 Other Charges Including Amounts Paid to Others on Your Behalf (Seller may keep part of these amounts): A Cost of Optional Credit Insurance Paid to Insurance Company or Companies. Life \$ N/A Disability \$ N/A B Vendor's Single Interest Insurance Paid to Insurance Company(ies) \$ N/A C Other Optional Insurance Paid to Insurance Company or Companies \$ N/A D Optional Gap Contract \$ 800.00 E Official Fees Paid to Government Agencies 1) to ST OF VA for GRS REC TAX \$ 30.04 2) to N/A for N/A \$ N/A 3) to N/A for N/A \$ N/A F Government Taxes Not Included in Cash Price \$ 53.00 G Government License and/or Registration Fees LIC/REG FEES \$ 22.00 H Government Certificate of Title Fees \$ N/A I Other Charges (Seller must identify who is paid and describe purpose.) 1) to BMW for NET TRADE BALANCE \$ 10035.18 2) to CNA for SERVICE CONTRACT \$ 2000.00 3) to N/A for N/A \$ N/A 4) to N/A for N/A \$ N/A 5) to N/A for N/A \$ N/A 6) to N/A for N/A \$ N/A 7) to N/A for N/A \$ N/A 8) to N/A for N/A \$ N/A 9) to SELLER for PROCESS FEE \$ 499.00 10) to N/A for N/A \$ N/A Total Other Charges and Amounts Paid to Others on Your Behalf \$ 13439.22 (4)	
5 Amount Financed (3 + 4)	\$ 45722.06 (5)

OPTION: ☐ You pay no finance charge if the Amount Financed, item 5, is paid in full on or before N/A, Year N/A. SELLER'S INITIALS N/A

☐ VENDOR'S SINGLE INTEREST INSURANCE. This insurance is not required to obtain credit and will not be provided unless you sign below and agree to pay the extra charge. If you choose to buy a gap contract, the charge is shown in item 4D of the Itemization of Amount Financed. See your gap contract for details on the terms and conditions it provides. It is a part of this contract.

OPTIONAL GAP CONTRACT. A gap contract (debt cancellation contract) is not required to obtain credit and will not be provided unless you sign below and agree to pay the extra charge. If you choose to buy a gap contract, the charge is shown in item 4D of the Itemization of Amount Financed. See your gap contract for details on the terms and conditions it provides. It is a part of this contract.

Term 75 Mths. CNA Name of Gap Contract

I want to buy a gap contract.

Buyer Signs X _____ Date 06/19/2014

NO COOLING OFF PERIOD

State law does not provide for a "cooling off" or cancellation period for this sale. After you sign this contract, you may only cancel it if the seller agrees or for legal cause. You cannot cancel this contract simply because you change your mind. This notice does not apply to home solicitation sales.

The Annual Percentage Rate may be negotiable with the Seller. The Seller may assign this contract and retain its right to receive a part of the Finance Charge.

HOW THIS CONTRACT CAN BE CHANGED. This contract, along with all other documents signed by you in connection with the purchase of the vehicle, comprise the entire agreement between you and us affecting this purchase. No oral agreements or understandings are binding. Upon assignment of this contract: (i) only this contract and addenda to this contract comprise the entire agreement between you and the assignee relating to this contract; (ii) any change to this contract must be in writing and the assignee must sign it; and (iii) no oral changes are binding.

Buyer Signs X _____ Co-Buyer Signs X _____

If any part of this contract is not valid, all other parts stay valid. We may delay or refrain from enforcing any of our rights under this contract without losing them. For example, we may extend the time for making some payments without extending the time for making others.

NO LIABILITY INSURANCE INCLUDED

NOTICE TO RETAIL BUYER: Do not sign this contract in blank. You are entitled to a copy of the contract at the time you sign. Keep it to protect your legal rights.

You agree to the terms of this contract. You confirm that before you signed this contract, we gave it to you, and you were free to take it and review it. You confirm that you received a completely filled-in copy when you signed it.

Buyer Signs X _____ Date 06/19/2014 Co-Buyer Signs X _____ Date N/A

Co-Buyers and Other Owners. A co-buyer is a person who is responsible for paying the entire debt. An other owner is a person whose name is on the title to the vehicle but does not have to pay the debt. The other owner agrees to the security interest in the vehicle given to us in this contract.

Other owner signs here X _____ Address _____ Title _____

Seller signs _____ Date 06/19/2014 By _____ Title _____

Seller assigns its interest in this contract to SUNTRUST BANK CONSUMER LEND (AS AGENT) under the terms of Seller's agreement(s) with Assignee.

☐ Assigned with recourse ☒ Assigned without recourse ☐ Assigned with limited recourse

Seller WEST BROAD HONDA By _____ Title _____

Insurance. You may buy the physical damage insurance this contract requires (see back) from anyone you choose who is authorized to sell such insurance in Virginia. Your choice will not affect our decision to extend credit or the terms of the contract. You are not required to buy any other insurance to obtain credit unless the law requiring Vendor's Single Interest Insurance is applied is checked below.

Any insurance is checked below, policies or certificates from the named insurance companies will describe the terms and conditions.

Check the insurance you want and sign below:

Optional Credit Insurance
☐ Credit Life: ☐ Buyer ☐ Co-Buyer ☐ Both
☐ Credit Disability: ☐ Buyer ☐ Co-Buyer ☐ Both

Premium:
Credit Life \$ N/A
Credit Disability \$ N/A

Insurance Company Name N/A
N/A

Home Office Address N/A
N/A

Credit life insurance and credit disability insurance are not required to obtain credit (see back). You have the right to use alternate coverage or buy such insurance elsewhere. Your choice of insurance will not affect our decision to extend credit or the terms of the contract. Your decision to buy or not to buy credit life insurance and credit disability insurance will not be a factor in the credit approval process. They will not be provided unless you sign and agree to pay the extra cost. If you choose to buy insurance, the cost is shown in item 4I of the Itemization of Amount Financed. Credit life insurance is based on your original payment schedule. This insurance may not pay all you owe on this contract if you make late payments. Credit disability insurance does not cover any increase in your payment or in the number of payments. Coverage for credit life insurance and credit disability insurance ends on the original due date for the last payment unless a different term for the insurance is shown below.

Other Optional Insurance
N/A N/A

Type of Insurance N/A Term

Premium \$ N/A

Insurance Company Name N/A
N/A

Home Office Address N/A
N/A

Type of Insurance N/A Term

Premium \$ N/A

Insurance Company Name N/A
N/A

Home Office Address N/A
N/A

Other optional insurance is not required to obtain credit. Your decision to buy or not to buy other optional insurance will not be a factor in the credit approval process. It will not be provided unless you sign and agree to pay the extra cost. Your choice of insurance will not affect our decision to extend credit or the terms of this contract.

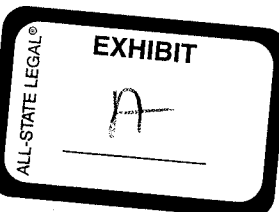
I want the insurance checked above.

Buyer Signature _____ Date N/A

Co-Buyer Signature _____ Date N/A

THIS INSURANCE DOES NOT INCLUDE INSURANCE ON YOUR LIABILITY FOR BODILY INJURY OR PROPERTY DAMAGE.

Returned Payment Charge: If any check you give us is dishonored or electronic payment you make is returned unpaid, we may, at our option, charge you \$ 60.



OTHER IMPORTANT AGREEMENTS

1. FINANCE CHARGE AND PAYMENTS

- a. **How we will figure the Finance Charge.** We will figure the Finance Charge on a daily basis at the Annual Percentage Rate on the unpaid part of the Amount Financed.
- b. **How we will apply payments.** We may apply each payment to the earned and unpaid part of the Finance Charge, to the unpaid part of the Amount Financed and to other amounts you owe under this contract in any order we choose.
- c. **How late payments or early payments change what you must pay.** We based the Finance Charge, Total of Payments, and Total Sale Price shown on the front on the assumption that you will make every payment on the day it is due. Your Finance Charge, Total of Payments, and Total Sale Price will be more if you pay late and less if you pay early. Changes may take the form of a larger or smaller final payment or, at our option, more or fewer payments of the same amount as your scheduled payment with a smaller final payment. We will send you a notice telling you about these changes before the final scheduled payment is due.
- d. **You may prepay.** You may prepay all or part of the unpaid part of the Amount Financed at any time without penalty. If you do so, you must pay the earned and unpaid part of the Finance Charge and all other amounts due up to the date of your payment.
- e. **Your right to refinance a balloon payment.** A balloon payment is any payment other than a down payment that is more than 10% greater than the regular or recurring installment payments. If you use the vehicle primarily for consumer purposes, you have the right to refinance a balloon payment over an extended period with additional payments. The additional periodic payments will not be more than 10% greater than the regularly scheduled installment payments.

2. YOUR OTHER PROMISES TO US

- a. **If the vehicle is damaged, destroyed, or missing.** You agree to pay us all you owe under this contract even if the vehicle is damaged, destroyed, or missing.
- b. **Using the vehicle.** You agree not to remove the vehicle from the U.S. or Canada, or to sell, rent, lease, or transfer any interest in the vehicle or this contract without our written permission. You agree not to expose the vehicle to misuse, seizure, confiscation, or involuntary transfer. If we pay any repair bills, storage bills, taxes, fines, or charges on the vehicle, you agree to repay the amount when we ask for it.
- c. **Security Interest.** You give us a security interest in:
 - The vehicle and all parts or goods put on it;
 - All money or goods received (proceeds) for the vehicle;
 - All insurance, maintenance, service, or other contracts we finance for you; and
 - All proceeds from insurance, maintenance, service, or other contracts we finance for you. This includes any refunds of premiums or charges from the contracts.

This secures payment of all you owe on this contract. It also secures your other agreements in this contract. You will make sure the title shows our security interest (lien) in the vehicle. You will not allow any other security interest to be placed on the title without our written permission.

- d. **Insurance you must have on the vehicle.** You agree to have physical damage insurance covering loss of or damage to the vehicle for the term of this contract. The insurance must cover our interest in the vehicle. If you do not have this insurance, we may, if we choose, buy physical damage insurance. If we decide to buy physical damage insurance, we may either buy insurance that covers your interest and our interest in the vehicle, or buy insurance that "covers only" our interest. If we buy either type of insurance, we will tell you which type and the charge you must pay. The charge will be the premium of the insurance and a finance charge computed at the Annual Percentage Rate shown on the front of this contract or, at our option, the highest rate the law permits. If the vehicle is lost or damaged, you agree that we may use any insurance settlement to reduce what you owe or repair the vehicle.
- e. **What happens to returned insurance, maintenance, service, or other contract charges.** If we obtain a refund of insurance, maintenance, service, or other contract charges, you agree that we may subtract the refund from what you owe.

3. IF YOU PAY LATE OR BREAK YOUR OTHER PROMISES

- a. **You may owe late charges.** You will pay a late charge on each late payment as shown on the front. Acceptance of a late payment or late charge does not excuse your late payment or mean that you may keep making late payments. If you pay late, we may also take the steps described below.

- b. **You may have to pay all you owe at once.** If you break your promises (default), we may demand that you pay all you owe on this contract at once. Default means:
 - You pay any payment (plus any late charges) more than 10 days late or not at all;
 - You give us false, incomplete, or misleading information on a credit application;
 - You start a proceeding in bankruptcy or one is started against you or your property; or
 - You break any agreements in this contract.
 The amount you will owe will be the unpaid part of the Amount Financed plus the earned and unpaid part of the Finance Charge, any late charges, and any amounts due because you defaulted.
- c. **You may have to pay collection costs.** If we hire an attorney to collect what you owe, you will pay the attorney's fee and court costs as the law allows. You will also pay any collection costs we incur as the law allows.
- d. **We may take the vehicle from you.** If you default, we may take (repossess) the vehicle from you if we do so peacefully and the law allows it. If your vehicle has an electronic tracking device, you agree that we may use the device to find the vehicle. If we take the vehicle, any accessories, equipment, and replacement parts will stay with the vehicle. If any personal items are in the vehicle, we may store them for you at your expense. If you do not ask for these items back, we may dispose of them as the law allows.
- e. **How you can get the vehicle back if we take it.** If we repossess the vehicle, you may pay to get it back (redeem). We will tell you how much to pay to redeem. Your right to redeem ends when we sell the vehicle.
- f. **We will sell the vehicle if you do not get it back.** If you do not redeem, we will sell the vehicle. We will send you a written notice of sale before selling the vehicle. We will apply the money from the sale, less allowed expenses, to the amount you owe. Allowed expenses are expenses we pay as a direct result of taking the vehicle, holding it for sale, and selling it. Attorney fees and court costs the law permits are also allowed expenses. If any money is left (surplus), we will pay it to you unless the law requires us to pay it to someone else. If money from the sale is not enough to pay the amount you owe, you must pay the rest to us. If you do not pay this amount when we ask, we may charge you interest at a rate not exceeding the highest lawful rate until you pay.
- g. **What we may do about optional insurance, maintenance, service or other contracts.** This contract may contain charges for optional insurance, maintenance, service, or other contracts. If we demand that you pay all you owe at once or we repossess the vehicle, we may claim benefits under these contracts and cancel them to obtain refunds of unearned charges to reduce what you owe or repair the vehicle. If the vehicle is a total loss because it is confiscated, damaged, or stolen, we may claim benefits under these contracts and cancel them to obtain refunds of unearned charges to reduce what you owe.

4. WARRANTIES SELLER DISCLAIMS

Unless the Seller makes a written warranty, or enters into a service contract within 90 days from the date of this contract, the Seller makes no warranties, express or implied, on the vehicle, and there will be no implied warranties of merchantability or of fitness for a particular purpose. Any implied warranties arising from a written warranty or service contract are limited to the duration of such written warranty or service contract. This provision does not affect any warranties covering the vehicle that the vehicle manufacturer may provide.

5. Used Car Buyers Guide. The information you see on the window form for this vehicle is part of this contract. Information on the window form overrides any contrary provisions in the contract of sale.

Spanish Translation: Guía para compradores de vehículos usados. La información que ve en el formulario de la ventanilla para este vehículo forma parte del presente contrato. La información del formulario de la ventanilla deja sin efecto toda disposición en contrario contenida en el contrato de venta.

6. VSI AND OPTIONAL INSURANCE

Choice of insurer. If vendor's single interest insurance is required (as indicated on the front), or if you desire optional insurance, such as credit life insurance or credit disability insurance, you have the right to use alternative coverage or to buy insurance elsewhere from the agent or insurer of your choice. You may also buy required physical damage insurance from the agent or insurer of your choice. Your choice of agent or insurer will not affect our decision to extend credit or your credit terms.

7. SERVICING AND COLLECTION CONTACTS

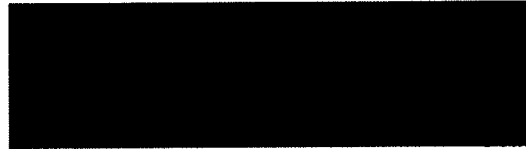
You agree that we may try to contact you in writing, by e-mail, or using prerecorded/artificial voice messages, text messages, and automatic telephone dialing systems, as the law allows. You also agree that we may try to contact you in these and other ways at any address or telephone number you provide us, even if the telephone number is a cell phone number or the contact results in a charge to you.

8. APPLICABLE LAW

Federal law and the law of the state of our address shown on the front of this contract apply to this contract.

NOTICE: ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.

The preceding NOTICE applies only to goods or services obtained primarily for personal, family, or household use. In all other cases, Buyer will not assert against any subsequent holder or assignee of this contract any claims or defenses the Buyer (debtor) may have against the Seller, or against the manufacturer of the vehicle or equipment obtained under this contract.



teral Management Services
9750 Goethe Road | Sacramento, CA 95827
www.dealertrack.com

SunTrust Bank

Lien and Title Information

Lienholder

ELT Lien ID [REDACTED]
Lienholder SUNTRUST BANK
Lienholder Address PO BOX 305053
NASHVILLE, TN 372305053
Lien Release Date

Vehicle and Titling Information

VIN	5J6TF2H53EL001828	Issuance Date	7/15/2014
Title Number	[REDACTED]	Received Date	1/30/2015
Title State	VA	ELT/Paper	ELECTRONIC
Year	2014	Odometer Reading	
Make	HOND	Branding	
Model			
Owner 1	ANGELA DENISE SPIVEY-BYERS		
Owner 2			
Owner Address	3754 PLANK RD NORTH GARDEN, VA 229592318		

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Any areas where this is present
represent redacted information.

